

Executive Summary – Enforcement Matter – Case No. 40477
City of Carrollton
RN101391456 and RN101384535
Docket No. 2010-1619-WQ-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

System No. 1, located at 2150 Old Denton Road that includes water lines located at 2001 Kelly Boulevard and at the intersection of North Josey Lane and Jackson Road, Carrollton, Dallas County

System No. 2, located in a drainage channel behind 2137 Tampico Drive, Carrollton, Dallas County

Type of Operation:

Public water system and a collection system with an associated manhole

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 28, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$23,600

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$23,600

Name of SEP: Capture Net on Josey Lake Inlet

Compliance History Classifications (RN101391456):

Person/CN - Average

Site/RN - N/A

Compliance History Classifications (RN101384535):

Person/CN - Average

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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RN101391456 and RN101384535
Docket No. 2010-1619-WQ-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 10, 2010, August 24, 2010, and November 2, 2010

Date(s) of NOE(s): September 2, 2010 and November 15, 2010

Violation Information

1. Failed to prevent the unauthorized discharge of a pollutant into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(3)].
2. Failed to provide notification to the TCEQ of accidental discharges which cause pollution [TEX. WATER CODE § 26.039(b)].
3. Failed to prevent an unauthorized discharge of wastewater [TEX. WATER CODE § 26.121(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Systems:

- a. By August 9, 2010, ceased the discharge and repaired the water line at 2001 Kelly Boulevard;
- b. By August 10, 2010, removed and disposed of the dead fish from Hutton Branch;
- c. By August 18, 2010, ceased the discharge and repaired the water line at the intersection of Josey Lane and Jackson Road;
- d. By August 20, 2010, removed and disposed of the dead fish from Josey Ranch Lake; and
- e. By October 27, 2010, contained the wastewater in the drainage channel, pumped the wastewater to a downstream manhole, applied a bioenzymatic digester and deodorizer to the channel, disposed of dead fish, conducted follow-up inspections, and repaired the defective portion of an eight-inch sewer mainline.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to:

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- a. Within 30 days, update operational guidance to ensure that the TCEQ Dallas/Fort Worth Regional Office and TCEQ Enforcement Division are provided proper and complete notification within 24 hours of any discharge; and
- b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223
Respondent: Marc Guy, Assistant City Manager, City of Carrollton, 2711 Nimitz Drive, Carrollton, Texas 75007
The Honorable Ronald Branson, Mayor, City of Carrollton, 2711 Nimitz Drive, Carrollton, Texas 75007
Respondent's Attorney: Brad Castleberry, Attorney, Lloyd Gosselink Attorneys at Law, 816 Congress Avenue, Suite 1900, Austin, Texas 78701

Attachment A
Docket Number: 2010-1619-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Carrollton
Penalty Amount:	Twenty-Three Thousand Six Hundred Dollars (\$23,600)
SEP Offset Amount:	Twenty-Three Thousand Six Hundred Dollars (\$23,600)
Type of SEP:	Custom
Project Name:	Capture Net on Josey Lake Inlet
Location of SEP:	Dallas County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall install a stormwater debris capture device near Josey Lake in Dallas County, Texas. The device will be a half-pipe with an extended net ("capture net") to capture and to prevent floating solids, trash and debris from entering into Josey Lake through a storm drain discharge pipe located at 32.973233N, -96.891731W (the "Project"). The SEP Offset Amount will be used to purchase the capture net device and the materials needed to anchor the capture net system to the storm drain discharge pipe. Respondent shall install an on-site sign explaining the capture net's purpose and will include the required statement that the project is being performed as the result of a TCEQ enforcement action as required by Section 6, *Publicity*, below. Respondent shall monitor the capture net every two weeks and within 24-hours after a significant rain event equaling .10" of rainfall or more. Respondent shall use its own funds to pickup, inventory, and dispose of collected trash and debris. Respondent shall provide TCEQ with a report every 90 days consisting of an inventory sheet with the amount and type of all items collected from the capture net. Respondent shall monitor and report for a period of one year after the installation of the capture net.

The SEP Offset Amount will be used for the costs of construction including materials and equipment and no SEP Offset Amount will be used for labor or reporting.

The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to do this project and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The SEP will benefit water quality by reducing the amount of floating solids, trash and debris from reaching Josey Lake.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete this Project.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2. *Performance Schedule*, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Table 2: Reporting Schedule

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions taken during previous 60-day period to implement the project
180	Actions taken during previous 90-day period to implement the project
270	Actions taken during previous 90-day period to implement the project
365	Notice of SEP completion

City of Carrollton
Attachment A

B. Final Report

Within 60 days after installation of the device, and not later than 425 days after the installation of the device, Respondent shall submit a Final Report to the TCEQ, which must include:

1. Itemized list of expenditures and total costs incurred;
2. Copies of all invoices, paid receipts and check copies or other verifying documentation;
3. Dated photographs of the project being performed, of the device after installation, and of the on-site sign with enforcement statement pursuant to Section 6, *Publicity*, below;
4. A map with sufficient detail identifying the location(s) of the project;
5. An inventory sheet with the amount and type of floating solids, trash and debris collected from the capture net for a period of one-year after installation of the capture net;
6. A certified/notarized statement of quantifiable environmental benefit; and
7. Any additional information that will demonstrate compliance with this Attachment A.

Copies of receipts, checks with associated invoices, and other documentation verifying appropriate expenditures and the completion of the project must be submitted with the final report.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-31087

4. Additional Information and Access

Respondent shall provide additional information as required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in

City of Carrollton
Attachment A

Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned PCW	Screening	EPA Due
	29-Sep-2010	21-Sep-2010	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Carrollton (System No. 1)		
Reg. Ent. Ref. No.	RN101391456		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40477	No. of Violations	4
Docket No.	2010-1619-WQ-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$16,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** \$0

Notes: No adjustment for compliance history.

Culpability **No** **0.0%** Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$3,750

Economic Benefit **0.0%** Enhancement* **Subtotal 6** \$0

Total EB Amounts \$12
Approx. Cost of Compliance \$6,750
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$12,350

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$12,350

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$12,350

DEFERRAL **0.0%** Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$12,350

Screening Date 21-Sep-2010

Docket No. 2010-1619-WQ-E

PCW

Respondent City of Carrollton (System No. 1)

Policy Revision 2 (September 2002)

Case ID No. 40477

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101391456

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 21-Sep-2010 **Docket No.** 2010-1619-WQ-E **PCW**
Respondent City of Carrollton (System No. 1) *Policy Revision 2 (September 2002)*
Case ID No. 40477 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101391456
Media [Statute] Water Quality
Enf. Coordinator Heather Brister
Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(3)
Violation Description Failed to prevent the discharge of a pollutant into or adjacent to water in the state, as documented during a record review conducted on August 10, 2010. Specifically, a water main break on August 9, 2010, at 2001 Kelly Boulevard, discharged approximately 700,000 gallons of potable water into an unnamed tributary of Hutton Branch killing approximately 1,200 fish.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%
Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants which exceed protective levels as a result of this violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

One daily event is recommended from the date the discharge occurred (August 9, 2010) to the date of compliance (August 10, 2010).

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

Before NOV NOV to EDPRP/Settlement Offer
 Extraordinary
 Ordinary x
 N/A (mark with x)

Notes The Respondent achieved compliance on August 10, 2010.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent City of Carrollton (System No. 1)
 Case ID No. 40477
 Reg. Ent. Reference No. RN101391456
 Media Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,500	9-Aug-2010	10-Aug-2010	0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$700	9-Aug-2010	10-Aug-2010	0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to stop the discharge and to clean the affected area. Date required is the date the discharge occurred and final date is the date the repairs were made and the affected area was cleaned.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,200

TOTAL

\$1

Screening Date 21-Sep-2010

Docket No. 2010-1619-WQ-E

PCW

Respondent City of Carrollton (System No. 1)

Policy Revision 2 (September 2002)

Case ID No. 40477

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101391456

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(3)

Violation Description

Failed to prevent the discharge of a pollutant into or adjacent to water in the state, as documented during a record review conducted on August 24, 2010. Specifically, a water main break on August 18, 2010, at the intersection of North Josey Lane and Jackson Road, discharged approximately 15,000 gallons of potable water into a storm drain which flowed into Josey Ranch Lake, killing approximately 60 fish.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which exceed protective levels as a result of this violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one
with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$10,000

Two daily events are recommended from the date the discharge occurred (August 18, 2010) to the date of compliance (August 20, 2010).

Good Faith Efforts to Comply

25.0% Reduction

\$2,500

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance on August 20, 2010.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

Economic Benefit Worksheet

Respondent City of Carrollton (System No. 1)
Case ID No. 40477
Req. Ent. Reference No. RN101391456
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,500	18-Aug-2010	20-Aug-2010	0.01	\$0	\$1	\$1
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$800	18-Aug-2010	20-Aug-2010	0.01	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to stop the discharge and to clean the affected area. Date required is the date the discharge occurred and final date is the date the repairs were made and the affected area was cleaned.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,300

TOTAL

\$1

Screening Date 21-Sep-2010

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PCW

Respondent City of Carrollton (System No. 1)

Policy Revision 2 (September 2002)

Case ID No. 40477

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101391456

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 3

Rule Cite(s)

Tex. Water Code § 26.039(b)

Violation Description

Failed to provide notification to the TCEQ of accidental discharges which cause pollution, as documented during a record review conducted on August 10, 2010. Specifically, the discharge of potable water that occurred on August 9, 2010, was not reported to the TCEQ within 24 hours.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix
Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

x

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent City of Carrollton (System No. 1)
Case ID No. 40477
Req. Ent. Reference No. RN101391456
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	10-Aug-2010	31-May-2011	0.81	\$10	n/a	\$10
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update operational guidance to ensure that discharges are reported adequately to the TCEQ within 24 hours. Date required is the date the first notification was due. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$10

Screening Date 21-Sep-2010

Docket No. 2010-1619-WQ-E

PCW

Respondent City of Carrollton (System No. 1)

Policy Revision 2 (September 2002)

Case ID No. 40477

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101391456

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 4

Rule Cite(s)

Tex. Water Code § 26.039(b)

Violation Description

Failed to provide complete notification to the TCEQ of accidental discharges which cause pollution, as documented during a record review conducted on August 24, 2010. Specifically, the Respondent did not include the name of the person submitting the report as well as report the volume of potable water discharged during the discharge that occurred on August 18, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor
				X

Percent 1%

Matrix Notes

At least 75% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$100

This violation Final Assessed Penalty (adjusted for limits) \$100

Economic Benefit Worksheet

Respondent City of Carrollton (System No. 1)
Case ID No. 40477
Reg. Ent. Reference No. RN101391456
Media Water Quality
Violation No. 4

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 3.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	16-Nov-2010	Screening	16-Nov-2010	EPA Due	
	PCW	7-Dec-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Carrollton (System No. 2)		
Reg. Ent. Ref. No.	RN101384535		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40477	No. of Violations	1
Docket No.	2010-1619-WQ-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$3,750
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$3
Approx. Cost of Compliance: \$7,103
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$11,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,250
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$11,250
------------------------	----------

Screening Date 16-Nov-2010

Docket No. 2010-1619-WQ-E

PCW

Respondent City of Carrollton (System No. 2)

Policy Revision 2 (September 2002)

Case ID No. 40477

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101384535

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 16-Nov-2010

Docket No. 2010-1619-WQ-E

PCW

Respondent City of Carrollton (System No. 2)

Policy Revision 2 (September 2002)

Case ID No. 40477

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101384535

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent an unauthorized discharge of wastewater, as documented during a record review conducted on November 2, 2010. Specifically, on October 24 and 25, 2010, approximately 2,500 gallons of wastewater overflowed from a manhole in an off-site concrete drainage channel behind 2137 Tampico Drive in Carrollton, Texas and entered Hutton Branch Creek resulting in a fishkill of an estimated 1,569 fish.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 3

3 Number of violation days

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Three daily events are recommended from the date the unauthorized discharge began (October 24, 2010) to the date compliance was achieved (October 27, 2010).

Good Faith Efforts to Comply

25.0% Reduction

\$3,750

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance by October 27, 2010.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$11,250

This violation Final Assessed Penalty (adjusted for limits) \$11,250

Economic Benefit Worksheet

Respondent City of Carrollton (System No. 2)
 Case ID No. 40477
 Reg. Ent. Reference No. RN101384535
 Media Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$2,313	24-Oct-2010	27-Oct-2010	0.01	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$4,790	24-Oct-2010	27-Oct-2010	0.01	\$2	n/a	\$2

Notes for DELAYED costs

Actual cost of cleanup and repairs, including blocking the drainage channel to contain the wastewater, pumping out the wastewater and sending it to another manhole downstream, applying a bioenzymatic digester and deodorizer on the channel, disposing of dead fish, conducting follow-up inspections, and repairing the defective portion of an eight-inch sewer mainline. Date required is the date the unauthorized discharge began and the final date is the date the cleanup and repairs were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$7,103

TOTAL

\$3

Compliance History Report (System No. 1)

Customer/Respondent/Owner-Operator:	CN600346613	City of Carrollton	Classification: AVERAGE	Rating: 2.73
Regulated Entity:	RN101391456	CITY OF CARROLLTON PWS	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY		REGISTRATION	0570034
	WATER LICENSING		LICENSE	0570034
Location:	2001 Kelly Boulevard and at the intersection of North Josey Lane and Jackson Road, Carrollton, Dallas County, Texas			

TCEQ Region:	REGION 04 - DFW METROPLEX
Date Compliance History Prepared:	September 16, 2010
Agency Decision Requiring Compliance History:	Enforcement
Compliance Period:	September 16, 2005 to September 16, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History	
Name:	Heather Brister
Phone:	(254) 761-3034

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site :

- | | | |
|----|---|-----|
| A. | Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. | N/A |
| C. | Chronic excessive emissions events. | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) | |
| | 1 12/21/2005 (437539) | |
| | 2 11/02/2007 (598110) | |
| | 3 09/03/2010 (850403) | |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.) | N/A |
| F. | Environmental audits. | N/A |
| G. | Type of environmental management systems (EMSs). | N/A |
| H. | Voluntary on-site compliance assessment dates. | N/A |
| I. | Participation in a voluntary pollution reduction program. | N/A |
| J. | Early compliance. | N/A |

Sites Outside of Texas

N/A

Compliance History (System No. 2)

Customer/Respondent/Owner-Operator:	CN600346613	City of Carrollton	Classification: AVERAGE	Rating: 2.74
Regulated Entity:	RN101384535	CITY OF CARROLLTON	Classification: HIGH	Site Rating: 0.00
ID Number(s):	UTILITIES	REGISTRATION		20418
	UTILITIES	REGISTRATION		11044
	TIRES	REGISTRATION		4797

Location: IN A DRAINAGE CHANNEL BEHIND 2137 TAMPICO DRIVE, CARROLLTON, DALLAS COUNTY TX.

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: December 01, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 01, 2005 to December 01, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Heather Brister Phone: 239 - 1000

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |
| 6. Rating Date: 9/1/2010 Repeat Violator: | NO |

Components (Multimedia) for the Site :

- | | | |
|------------------------|--|-----|
| A. | Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government. | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. | N/A |
| C. | Chronic excessive emissions events. | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) | |
| | 1 05/31/2006 (467126) | |
| | 2 05/31/2006 (480329) | |
| | 3 05/14/2007 (559901) | |
| | 4 09/17/2009 (776224) | |
| | 5 11/12/2010 (872840) | |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.) | N/A |
| F. | Environmental audits. | N/A |
| G. | Type of environmental management systems (EMSs). | N/A |
| H. | Voluntary on-site compliance assessment dates. | N/A |
| I. | Participation in a voluntary pollution reduction program. | N/A |
| J. | Early compliance. | N/A |
| Sites Outside of Texas | | |
| N/A | | |

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF CARROLLTON
RN101391456 AND RN101384535**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-1619-WQ-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Carrollton ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Mr. Brad Castleberry of the law firm of Lloyd Gosselink Attorneys at Law, presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water system located at 2150 Old Denton Road that includes water lines located at 2001 Kelly Boulevard and at the intersection of North Josey Lane and Jackson Road in Carrollton, Dallas County, Texas ("System No. 1").

2. The Respondent owns and operates a collection system with an associated manhole located in a drainage channel behind 2137 Tampico Drive in Carrollton, Dallas County, Texas ("System No. 2").
3. The Respondent has discharged a pollutant into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
4. During a record review conducted on August 10, 2010, TCEQ staff documented that a water main break occurred on August 9, 2010, at 2001 Kelley Boulevard and discharged approximately 700,000 gallons of potable water into an unnamed tributary of Hutton Branch killing approximately 1,200 fish. In addition, a record review conducted on August 24, 2010, documented that a water main break occurred on August 18, 2010, at the intersection of North Josey Lane and Jackson Road and discharged approximately 15,000 gallons of potable water into a storm drain that flows into Josey Ranch Lake, killing approximately 60 fish.
5. During a record review conducted on August 10, 2010, TCEQ staff documented that the August 9, 2010, discharge of potable water was not reported to the TCEQ within 24 hours. In addition, a record review conducted on August 24, 2010, documented that the Respondent did not provide proper notification to the TCEQ of the discharge that occurred on August 18, 2010. Specifically, when the Respondent reported the August 18, 2010 discharge to the TCEQ on August 20, 2010, they did not include the name of the person submitting the report as well as report the volume of potable water discharged.
6. During a record review conducted on November 2, 2010, TCEQ staff documented that on October 24 and 25, 2010, approximately 2,500 gallons of wastewater overflowed from a manhole in an off-site concrete drainage channel behind 2137 Tampico Drive in Carrollton, Texas and entered Hutton Branch Creek resulting in a fishkill of an estimated 1,569 fish.
7. The Respondent received notices of the violations on September 7, 2010 and November 20, 2010.
8. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Systems:
 - a. By August 9, 2010, ceased the discharge and repaired the water line at 2001 Kelly Boulevard;
 - b. By August 10, 2010, removed and disposed of the dead fish from Hutton Branch;
 - c. By August 18, 2010, ceased the discharge and repaired the water line at the intersection of Josey Lane and Jackson Road;

- d. By August 20, 2010, removed and disposed of the dead fish from Josey Ranch Lake; and
- e. By October 27, 2010, contained the wastewater in the drainage channel, pumped the wastewater to a downstream manhole, applied a bioenzymatic digester and deodorizer to the channel, disposed of dead fish, conducted follow-up inspections, and repaired the defective portion of an eight-inch sewer mainline.

II. CONCLUSIONS OF LAW

- 1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
- 2. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent the unauthorized discharge of a pollutant into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(3).
- 3. As evidenced by Findings of Fact No. 5, the Respondent failed to provide notification to the TCEQ of accidental discharges which cause pollution, in violation of TEX. WATER CODE § 26.039(b).
- 4. As evidenced by Findings of Fact No. 6, the Respondent failed to prevent an unauthorized discharge of wastewater, in violation of TEX. WATER CODE § 26.121(a)(1).
- 5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
- 6. An administrative penalty in the amount of Twenty-Three Thousand Six Hundred Dollars (\$23,600) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Twenty-Three Thousand Six Hundred Dollars (\$23,600) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

- 1. The Respondent is assessed an administrative penalty in the amount of Twenty-Three Thousand Six Hundred Dollars (\$23,600) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative

penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Carrollton, Docket No. 2010-1619-WQ-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete the SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 6 above, Twenty-Three Thousand Six Hundred Dollars (\$23,600) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update operational guidance to ensure that the TCEQ Dallas/Fort Worth Regional Office and TCEQ Enforcement Division are provided proper and complete notification within 24 hours of any discharge, in accordance with TEX. WATER CODE § 26.039(b); and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

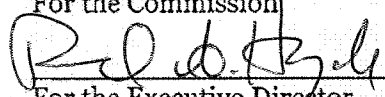
Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the System operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

11/17/11
Date

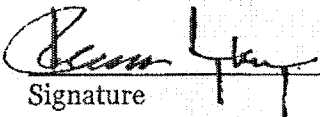
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Carrollton. I am authorized to agree to the attached Agreed Order on behalf of the City of Carrollton, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Carrollton waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

9-19-2011
Date

MARC GUY
Name (Printed or typed)
Authorized Representative of
City of Carrollton

ASSISTANT CITY MANAGER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2010-1619-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Carrollton
Penalty Amount:	Twenty-Three Thousand Six Hundred Dollars (\$23,600)
SEP Offset Amount:	Twenty-Three Thousand Six Hundred Dollars (\$23,600)
Type of SEP:	Custom
Project Name:	Capture Net on Josey Lake Inlet
Location of SEP:	Dallas County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall install a stormwater debris capture device near Josey Lake in Dallas County, Texas. The device will be a half-pipe with an extended net ("capture net") to capture and to prevent floating solids, trash and debris from entering into Josey Lake through a storm drain discharge pipe located at 32.973233N, -96.891731W (the "Project"). The SEP Offset Amount will be used to purchase the capture net device and the materials needed to anchor the capture net system to the storm drain discharge pipe. Respondent shall install an on-site sign explaining the capture net's purpose and will include the required statement that the project is being performed as the result of a TCEQ enforcement action as required by Section 6, *Publicity*, below. Respondent shall monitor the capture net every two weeks and within 24-hours after a significant rain event equaling .10" of rainfall or more. Respondent shall use its own funds to pickup, inventory, and dispose of collected trash and debris. Respondent shall provide TCEQ with a report every 90 days consisting of an inventory sheet with the amount and type of all items collected from the capture net. Respondent shall monitor and report for a period of one year after the installation of the capture net.

The SEP Offset Amount will be used for the costs of construction including materials and equipment and no SEP Offset Amount will be used for labor or reporting.

The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to do this project and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The SEP will benefit water quality by reducing the amount of floating solids, trash and debris from reaching Josey Lake.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete this Project.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2. *Performance Schedule*, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Table 2: Reporting Schedule

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions taken during previous 60-day period to implement the project
180	Actions taken during previous 90-day period to implement the project
270	Actions taken during previous 90-day period to implement the project
365	Notice of SEP completion

B. Final Report

Within 60 days after installation of the device, and not later than 425 days after the installation of the device, Respondent shall submit a Final Report to the TCEQ, which must include:

1. Itemized list of expenditures and total costs incurred;
2. Copies of all invoices, paid receipts and check copies or other verifying documentation;
3. Dated photographs of the project being performed, of the device after installation, and of the on-site sign with enforcement statement pursuant to Section 6, *Publicity*, below;
4. A map with sufficient detail identifying the location(s) of the project;
5. An inventory sheet with the amount and type of floating solids, trash and debris collected from the capture net for a period of one-year after installation of the capture net;
6. A certified/notarized statement of quantifiable environmental benefit; and
7. Any additional information that will demonstrate compliance with this Attachment A.

Copies of receipts, checks with associated invoices, and other documentation verifying appropriate expenditures and the completion of the project must be submitted with the final report.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-31087

4. Additional Information and Access

Respondent shall provide additional information as required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in

Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.